

## **ORDINANCE 2309**

### **AN INTERIM URGENCY ORDINANCE OF THE TOWN OF LOS GATOS EXTENDING A TEMPORARY MORATORIUM ON EVICTIONS DUE TO NONPAYMENT OF RENT FOR RESIDENTIAL TENANTS WHERE THE FAILURE TO PAY RENT RESULTS FROM INCOME LOSS RESULTING FROM THE NOVEL CORONAVIRUS (COVID-19) AND SUSPENDING ALL DEADLINES RELATED TO LAND USE ENTITLEMENTS**

**WHEREAS**, pursuant to the Town's police power, as granted broadly under Article XI, Section 7 of the California Constitution, the Town Council has the authority to enact and enforce ordinances and regulations for the public peace, morals, and welfare of the Town and its residents; and

**WHEREAS**, pursuant to California Government Code Section 8680.9, a local emergency is a condition of extreme peril to persons or property proclaimed as such by the governing body of the local agency affected by a natural or manmade disaster; and

**WHEREAS**, California Government Code Section 8634 states that "During a local emergency the governing body of a political subdivision, or officials designated thereby, may promulgate orders and regulations necessary to provide for the protection of life and property..."; and

**WHEREAS**, the purpose of a local emergency proclamation is to provide extraordinary powers to issue rules and regulations on matters reasonably related to the protection of life and property as affected by such emergency, obtain vital supplies, and require emergency services of employees; and

**WHEREAS**, international, national, state, and local health and governmental authorities are responding to an outbreak of respiratory disease caused by a novel coronavirus named "SARS-CoV-2," and the disease it causes has been named "coronavirus disease 2019," abbreviated COVID-19, ("COVID-19"); and

**WHEREAS**, on January 30, 2020, the World Health Organization declared the Covid-19 outbreak a Public Health Emergency of International Concern; and

**WHEREAS**, on January 30, 2020, the United States Secretary of Health and Human Services declared a Public Health Emergency; and

**WHEREAS**, on January 31, 2020, the first case of COVID-19 was confirmed in Santa Clara County ("County"); and

**WHEREAS**, on February 10, 2020, the Santa Clara County Board of Supervisors and Department of Public Health declared a local emergency and local public health emergency to aid the regional healthcare and governmental community in responding to COVID-19; and

**WHEREAS**, on March 4, 2020, the Governor of the State of California declared a state of emergency to make additional resources available, formalize emergency actions already underway across multiple state agencies and departments, and help the state prepare for broader spread of COVID-19; and

**WHEREAS**, on March 11, 2020, the World Health Organization declared COVID-19 an International Pandemic; and

**WHEREAS**, on March 12, 2020, the Town Manager of Los Gatos acting in the capacity of Director of Emergency Services issued a Proclamation of Local Emergency; and

**WHEREAS**, on March 13, 2020, the President of the United States of America declared a national emergency and announced that the federal government would make emergency funding available to assist state and local governments in preventing the spread of and addressing the effects of COVID-19; and

**WHEREAS**, on March 14, 2020, the Town Library was closed to minimize the congregation of individuals consistent with Santa Clara County Public Health directives prohibiting more than 100 people to gather; and

**WHEREAS**, on March 16, 2020, the Santa Clara County Department of Public Health directed all individuals in the County to Shelter in Place and mandated requirements, including but not limited to, social distancing, staying home if sick, canceling or postponing group events, working from home, and other precautions to protect public health and prevent transmission of this communicable virus; and

**WHEREAS**, at the end of the business day on March 16, 2020, the Town closed its offices to the public pursuant to the Shelter in Place Order and suspended the ability to process planning and building applications, planning and building submittals, resubmittals, and issuance of permits; and

**WHEREAS**, on March 16, 2020 the Governor of the State of California issued an executive order that authorizes local governments to halt evictions for renters and homeowners, slows foreclosures, and protects against utility shutoffs for Californians affected by COVID-19; and

**WHEREAS**, on March 17, 2020, the Town Council of the Town of Los Gatos ratified the Proclamation of Local Emergency; and

**WHEREAS**, on March 18, the President of the United States of America announced a moratorium on evictions of single-family homeowners with federally backed mortgages, but the moratorium does not apply to the vast majority of renters; and

**WHEREAS**, on March 24, 2020, the County of Santa Clara adopted an Urgency Ordinance establishing a temporary and limited moratorium on evictions that applies countywide; and

**WHEREAS**, on March 24, 2020, the Town Council at a duly noticed public meeting took testimony and adopted an Urgency Interim Ordinance, for a period of 45 days, enacting a moratorium on residential evictions and a suspension of land use entitlement deadlines; and

**WHEREAS**, on March 27, 2020 the Governor of the State of California issued an executive order banning the enforcement of eviction orders for renters affected by COVID-19 through May 31, 2020. The order prohibits landlords from evicting tenants for nonpayment of rent and prohibits enforcement of evictions by law enforcement or courts; and

**WHEREAS**, as a result of the public health emergency and the precautions recommended by health authorities, many tenants in Los Gatos have experienced or expect soon to experience sudden and unexpected income loss; and

**WHEREAS**, further economic impacts are anticipated, leaving tenants vulnerable to eviction; and

**WHEREAS**, during this local emergency, and in the interest of protecting the public health and preventing transmission of COVID-19, it is essential to avoid unnecessary housing displacement, to protect the Town's affordable housing stock, and to prevent housed individuals from falling into homelessness; and

**WHEREAS**, loss of income as a result of COVID-19 may inhibit Los Gatos residents from fulfilling their financial obligations; and

**WHEREAS**, on May 5, 2020, in accordance with Government Code Section 8680.9, and 65858, the Town Council held a duly noticed public hearing and took testimony regarding extending Town Interim Urgency Ordinance adopted on March 24, 2020; and

**WHEREAS**, because the conditions justifying the adoption of Urgency Interim Ordinance have not been alleviated, the Town Council now desires to extend the moratorium established by Interim Urgency Ordinance for an additional 45 days until June 22, 2020, as permitted by Government Code Section 65858(b); and

**WHEREAS**, the Town Council does hereby find that the above described conditions warrant on an urgency basis a temporary moratorium on evictions due to nonpayment of rent for residential tenants where the failure to pay rent results from income loss resulting from the Novel Coronavirus (COVID-19); and

**WHEREAS**, the Town Council does hereby find that the above described conditions and the closing of Town office warrant suspending all established planning and building deadlines that authorize automatic approvals or denials for the duration of the ordinance; and

**WHEREAS**, this interim urgency ordinance is adopted in accordance with the requirements of Government Code Section 8680.9, and 65858; and

**WHEREAS**, this interim urgency ordinance is temporary and not a general ordinance in force required to be codified but rather intended to enhance stability and public health in the Town during the COVID-19 pandemic outbreak.

**NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF LOS GATOS DOES ORDAIN AS FOLLOWS:**

**SECTION 1.** The above recitals are incorporated herein and are each relied upon independently by the Town Council for its adoption of this urgency interim ordinance.

**SECTION 2.** The intent of the Santa Clara County Health Department Shelter in Place Order is to ensure that the maximum number of people self-isolate in their places of residence to the maximum extent feasible, while enabling essential services to continue, to slow the spread of COVID-19 to the maximum extent possible.

**SECTION 3.** For a period of an additional forty five (45) days, commencing on the date of the adoption of this extension of the urgency interim ordinance, no evictions due to nonpayment of rent for residential tenants where the failure to pay rent results from income loss resulting from the Novel Coronavirus (COVID-19) shall occur.

**SECTION 4.** A landlord knows of a tenant's inability to pay rent within the meaning of this ordinance if the tenant notifies the landlord in writing of lost income and inability to pay full rent due to financial impacts related to COVID-19. Any medical or financial information provided to the landlord shall be held in confidence, and only used for evaluating the tenant's claim.

**SECTION 5.** Nothing in this ordinance shall relieve the tenant of liability for the unpaid rent, which the landlord may seek after expiration of the local emergency. A landlord may not charge or collect a late fee for rent that is delayed for the reasons stated in this ordinance; nor may a landlord seek rent that is delayed, or the reasons stated in this ordinance through the eviction process.

**SECTION 6.** This ordinance shall not be read in any way to (a) adversely affect and/or abrogate the rights of tenants under Chapter 14.80 of the Los Gatos Town; and/or (b) prohibit any terminations of tenancy for just cause, or other terminations of tenancy where this ordinance does not apply.

**SECTION 7.** As applied to notices of termination issued prior to the effective date of this ordinance, this ordinance shall apply to tenancies where, as of the effective date of this ordinance, said tenant remains in possession and/or any eviction lawsuit has not reached a final judgment or issuance of a final order, after all appeals have been exhausted.

**SECTION 8.** This ordinance may be asserted as an affirmative defense in an unlawful detainer action. Any failure to comply with this ordinance does not constitute a criminal offense.

**SECTION 9.** This ordinance incorporates herein the County of Santa Clara Urgency Ordinance and the State of California Executive Order establishing a moratorium on evictions and any amendments thereto.

**SECTION 10.** All provisions of laws, ordinances, regulations, resolutions, rules and statutes, including but not limited to, provisions contained in the California Permit Streamlining Act, the California Environmental Quality Act, the California Subdivision Map Act, the Housing

Accountability Act, SB 35, Town Subdivision Regulations, Town Zoning Regulations and Town Application policies and procedures, establishing review deadlines and authorizing automatic approvals, are suspended for the duration of the ordinance.

**SECTION 11.** This Extension of the Interim Urgency Ordinance is enacted pursuant to the authority conferred upon the Town Council of the Town of Los Gatos by Government Code Sections 65858, 36934 and 36937, and shall be in full force and effect immediately upon its adoption by a four-fifths (4/5) vote of the Town Council as if and to the same extent that such Ordinance had been adopted pursuant to each of the individual sections set forth hereinabove.

**SECTION 12.** In adopting this Extension of the Interim Urgency Ordinance, the Town Council finds and determines that each of the recitals contained in this Ordinance are true and correct, and that the adoption of this Extension of the Interim Urgency Ordinance is necessary to protect the public safety, health and welfare, as those terms are defined in Government Code Section 65858(a).

**SECTION 13.** The approval of this ordinance is exempt from the California Environmental Quality Act (Public Resources Code §§ 21000 et seq., "CEQA," and 14 Cal. Code Reg. §§ 15000 et seq., "CEQA Guidelines"). This ordinance imposes a general tax that can be used for any legitimate governmental purpose; it is not a commitment to any particular action. As such, under CEQA Guidelines section 15378( b)( 4), the ordinance is not a "project" within the meaning of CEQA because it creates a government funding mechanism that does not involve any commitment to any specific project that may result in a potentially significant physical impact on the environment. If revenue from the tax were used for a purpose that would have either such effect, the Town would undertake the required CEQA review for that project. Therefore, pursuant to CEQA Guidelines section 15060, CEQA analysis is not required.

**SECTION 14.** This Extension of the Interim Urgency Ordinance shall be of no further force or effect forty-five (45) days from and after the date of its adoption, unless the same is extended pursuant to the authority conferred upon the Town Council by Government Code Section 65858(a).

**SECTION 15.** If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance and the application of such provision to other persons or circumstances shall not be affected thereby.

**PASSED AND ADOPTED** at a regular meeting of the Town Council of the Town of Los Gatos, California, held on the 5<sup>th</sup> day of May 2020, by the following vote:

COUNCIL MEMBERS:

AYES: Rob Rennie, Marico Sayoc, Barbara Spector, Mayor Marcia Jensen

NAYS: None

ABSENT: None

ABSTAIN: None

SIGNED:



MAYOR OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA

DATE: 5/6/20

ATTEST:



TOWN CLERK OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA

DATE: 5/8/2020